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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,775	04/15/2004	Brian Fideler	899.087US1	6705
21186	7590	10/01/2007	EXAMINER	
SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402				LE, HUYEN D
ART UNIT		PAPER NUMBER		
2615				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/824,775	FIDELER, BRIAN
	Examiner HUYEN D. LE	Art Unit 2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 July 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
  - 4a) Of the above claim(s) 20-41 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 and 42-46 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 20-41 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/24/05</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of species A: figure 4A with claims 1-19 and 42-46 in the reply filed on 7/23/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-11, 16-17 and 42-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Olsen (U.S. patent 6,430,296).

Regarding claims 1, 4-6, 16 and 42, Olsen teaches a hearing apparatus that comprises a housing (1, 2) adapted to fit within at least a portion of the hearing canal and having at least one access port (figure 1), a cover (3) adapted for at least partially covering the access port (figures 1, 2, 3), and a signal processing electronics (4 and/or 6) connected to a microphone (5) and a power supply (22, 23, figure 6) and adapted to fit in the access port.

Olsen further shows a microphone housing (4, 5) adapted to mount to the housing (1, 2) and the access port, a receiver (7) and a fastener or a pin (25, figures 6, 7, 10) as a unitary connector of the cover (3) and microphone housing (4, 5) to the housing (figures 1, 2).

Regarding claims 7 and 43, Olsen shows the housing that is comprised of sections (figures 1, 2).

Regarding claims 8 and 44, Olsen shows the housing that includes a shell and a faceplate including the access port (figure 1).

Regarding claim 9, Olsen teaches the faceplate that is trimmed (see figures 2, 3 and col. 3, lines 2-13).

Regarding claims 10-11 and 45, Olsen teaches the housing that includes a shell combined with a bezel as claimed in claims 10-11 and 45 (see figure 1 and col. 3, lines 2-13).

Regarding claim 17, Olsen shows the microphone housing that includes battery terminals (22), and the cover (3) that is adapted to hold a battery (23) as claimed.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen (U.S. patent 6,430,296).

Regarding claims 2-3, Olsen does not specifically teach a telecoil or wireless communication electronics as claimed. However, it is known in the art to provide a telecoil or wireless communication electronics to be electrically connected to the signal processing electronics in the hearing aid.

Therefore, it would have been obvious to one skilled in the art to provide any hearing aid components such as telecoil or wireless communication electronics to be electrically connected to the signal processing electronics (6) of the Olsen hearing aid for greater application and better using the hearing aid with any telephone devices.

6. Claims 12-15 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen (U.S. patent 6,430,296) in view of Hanright (U.S. patent 5,799,095) or Robinson et al. (U.S. patent 6,678,386).

Regarding claims 12 and 46, Olsen does not specifically teach the hearing aid that is a programmable hearing aid. However, providing a programmable module for a hearing aid is known in the art.

Hanright and Robinson et al. teach a programmable circuit or a programmable module that is electrically connected to a microphone housing in a hearing aid (figures 6, 9, 10 and col. 5, lines 15-22 in Hanright and 200, 300 and col. 2, lines 63 through col. 3, lines 1-9 in Robinson).

Therefore, it would have been obvious to one skilled in the art to provide a programmable module or a programmable circuit, as taught by Hanright or Robinson, to be connected to the connector of the microphone housing (4, 5) and the signal processing electronics (6) for better providing a programmable hearing aid.

Regarding claims 13-15, Olsen in view of Hanright and Robinson teach the programmable connector that is accessible while the cover is closed, and it is obvious that the

microphone housing or hearing aid housing has soldering areas for soldering the hearing aid components in the housing or to the printed circuit board.

7. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen (U.S. patent 6,430,296).

Regarding claim 18, Olsen shows a conducting tube for the receiver (figure 1). Olsen does not specifically teach that the conducting tube is the pliable tube. However, providing a pliable tube for a receiver in a hearing aid is known in the art.

Since Olsen does not restrict to any material for the conducting tube or the receiver assembly; it therefore would have been obvious to one skilled in the art to provide any material for the conducting tube of the receiver (7) such as a flexible or pliable material for better providing an assembling of a receiver module in the hearing aid.

Regarding claim 19, Olsen shows the receiver (7) being connected to an opening in the housing (figure 1). Olsen does not specifically teach an adhesive for connecting the receiver an opening in the housing as claimed. However, providing a fastening means such as an adhesive for connecting the parts in the hearing aid housing is known in the art.

Therefore, it would have been obvious to one skilled in the art to provide any type of fastening means such as an adhesive for connecting the receiver (7) to the opening of the hearing aid housing (1) for an alternate choice and better connecting the parts together.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2615

Schmitt et al. (U.S. patent 5,889,874) teaches an in-the-ear hearing aid housing that has face plate being attachable to the shell.

Schmitt (U.S. patent 7,039,209) teaches a cover device for hearing aids.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (571) 272-7502. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SINH TRAN can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



HL  
September 25, 2007



HUYEN LE  
PRIMARY EXAMINER